House of Representatives

General Assembly

File No. 566

January Session, 2015

Substitute House Bill No. 5291

House of Representatives, April 13, 2015

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REIMBURSEMENT FOR MUNICIPAL PHOSPHOROUS ABATEMENT PROJECTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (c) of section 22a-478 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) The funding of an eligible water quality project shall be pursuant to a project funding agreement between the state, acting by and through the commissioner, and the municipality undertaking such project and shall be evidenced by a project fund obligation or grant account loan obligation, or both, or an interim funding obligation of such municipality issued in accordance with section 22a-479. A project funding agreement shall be in a form prescribed by the commissioner. Eligible water quality projects shall be funded as follows:

(1) A nonpoint source pollution abatement project shall receive a project grant of seventy-five per cent of the cost of the project

determined to be eligible by the commissioner.

(2) A combined sewer project shall receive (A) a project grant of fifty per cent of the cost of the project, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(3) A construction contract eligible for financing awarded by a municipality on or after July 1, 2012, as a project undertaken for nutrient removal shall receive a project grant of thirty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. Nutrient removal projects under design or construction on July 1, 2012, and projects that have been constructed but have not received permanent, Clean Water Fund financing, on July 1, 2012, shall be eligible to receive a project grant of thirty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(4) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, 2012, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed fifty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the allowable water quality project costs.

(5) A municipality with a water pollution control project, the construction of which began on or after July 1, 2003, which has (A) a population of five thousand or less, or (B) a population of greater than five thousand which has a discrete area containing a population of less

than five thousand that is not contiguous with the existing sewerage system, shall be eligible to receive a grant in the amount of twenty-five per cent of the design and construction phase of eligible project costs, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(6) Any contract entered into by a municipality on or **[**before July 1, 2018**]** after the effective date of this act, that is eligible for financing as a project undertaken for phosphorus removal to at or below two-tenths milligrams per liter effluent discharge, shall receive (A) a project grant of **[**fifty**]** thirty-five per cent of the cost of the project associated with such phosphorus removal, (B) except as provided in subdivision (3) of this subsection, a twenty per cent grant for the balance of the cost of the project, and (C) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. In providing funding under this subdivision, the commissioner shall give priority, first to projects with the lowest permitted limit of phosphorus discharge as contained in a valid discharge permit issued pursuant to section 22a-430, and then to those that remove the greatest amount of phosphorus, as measured in pounds per year.

(7) A municipality with a 2012 population of not less than forty thousand but not more than forty-two thousand with a municipal sewerage system that provides a regional sewerage treatment capacity to not less than five abutting communities, each with 2012 populations of less than five thousand, shall receive funding levels consistent with subdivisions (1) to (6), inclusive, of this subsection plus an additional five per cent for the design and construction phase costs of an eligible water quality project and a loan for the remainder of the costs of such eligible water quality project, provided such loan shall not exceed one hundred per cent of the costs of such eligible water project.

(8) Any other eligible water quality project shall receive (A) a project grant of twenty per cent of the eligible cost, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per

cent of the eligible project cost.

(9) Project agreements to fund eligible project costs with grants from the Clean Water Fund that were executed during or after the fiscal year beginning July 1, 2003, shall not be reduced according to the provisions of the regulations adopted under section 22a-482.

(10) On or after July 1, 2002, an eligible water quality project that exclusively addresses sewer collection and conveyance system improvements may receive a loan for one hundred per cent of the eligible costs provided such project does not receive a project grant. Any such sewer collection and conveyance system improvement project shall be rated, ranked, and funded separately from other water pollution control projects and shall be considered only if it is highly consistent with the state's conservation and development plan, or is primarily needed as the most cost effective solution to an existing area-wide pollution problem and incorporates minimal capacity for growth.

(11) All loans made in accordance with the provisions of this section for an eligible water quality project shall bear an interest rate of two per cent per annum. The commissioner may allow any project fund obligation, grant account loan obligation or interim funding obligation for an eligible water quality project to be repaid by a borrowing municipality prior to maturity without penalty.

Sec. 2. Section 22a-428a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection, or the commissioner's designee and the chief elected officials of the cities of Danbury, Meriden and Waterbury and the towns of Cheshire, Southington and Wallingford, and the chief elected official of any other municipality impacted by the state-wide strategy to reduce phosphorus, or such chief elected officials' designees, shall collaboratively evaluate and make recommendations regarding a state-wide strategy to reduce phosphorus loading in inland nontidal waters in order to comply with standards established by the United States

Environmental Protection Agency. Such evaluation and recommendations shall include (1) a state-wide response to address phosphorus nonpoint source pollution, (2) approaches for municipalities to use in order to comply with standards established by the United States Environmental Protection Agency for phosphorus, including guidance for treatment and potential plant upgrades, and (3) the proper scientific methods by which to measure current phosphorus levels in inland nontidal waters and to make future projections of phosphorus levels in such waters. The commissioner shall submit a report on or before October 1, 2014, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to municipalities and the environment. Such report shall set forth the recommendations required pursuant to subdivisions (1), (2) and (3) of this **[**section**]** subsection and detail the collaborative effort through which such recommendations were reached.

(b) Not later than six months following submission of the report described in subsection (a) of this section, the commissioner, in accordance with the provisions of section 11-4a, shall submit a report to the joint standing committees of the General Assembly having cognizance of matters relating to municipalities and the environment. Such report shall detail how the commissioner intends to implement the recommendations contained in the report described in subsection (a) of this section.

Sec. 3. (*Effective from passage*) Not later than July 1, 2015, the Commissioner of Energy and Environmental Protection shall begin a study of the Quinnipiac River watershed. Such study shall determine the water quality benefits derived from reductions in phosphorous levels from wastewater treatment plants that are required to meet interim phosphorous reduction levels. Such study shall be conducted in conjunction with each affected municipality and the United States Geological Survey. Not later than January 1, 2016, the commissioner, in accordance with the provisions of section 11-4a of the general statutes, shall submit a report to the joint standing committees of the General

Assembly having cognizance of matters relating to municipalities and the environment concerning such study. Such report shall include, but not be limited to, recommendations for any further actions necessary to reduce phosphorous discharges to improve water quality and recommendations for assisting such affected municipalities with complying with applicable phosphorous reduction standards.

Sec. 4. (*Effective from passage*) Concomitantly with the submission of the report described in section 3 of this act, the Commissioner of Energy and Environmental Protection shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committees of the General Assembly having cognizance of matters relating to municipalities and the environment. Such report shall detail the changes, if any, that the commissioner intends to make to the phosphorous discharge limits contained in permits issued pursuant to section 22a-430 of the general statutes due to the findings and recommendations of the evaluation and study required by section 22a-428a of the general statutes, as amended by this act, and section 3 of this act, respectively.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	22a-478(c)
Sec. 2	*from passage*	22a-428a
Sec. 3	*from passage*	New section
Sec. 4	*from passage*	New section

ENV *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: None

Municipal Impact: See Below

Explanation

The bill eliminates a July 1, 2018 construction contracting deadline for municipalities to qualify for grants from the Clean Water Fund (CWF). It also reduces, from 50% to 35%, the maximum grant amount municipalities receive for phosphorous reduction projects.

This does not result in a fiscal impact to the state as no additional bond authorizations are being made from the CWF for this purpose.[1]

The bill may speed up reimbursements made from the state (through the CWF) to various municipalities, as it removes the July 1, 2018 contracting deadline. It also, however, may reduce reimbursements made from the state's CWF to various municipalities, to the extent the bill reduces grant awards, from 50% to 35% of eligible project costs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[1] The unallocated balance in the CWF, as of 3/17/2015 is $175 million in grants to towns (GO bonds) and $342.4 million in low-interest loans (revenue bonds) to towns.

OLR Bill Analysis

sHB 5291

AN ACT CONCERNING REIMBURSEMENT FOR MUNICIPAL PHOSPHOROUS ABATEMENT PROJECTS.

SUMMARY:

This bill (1) eliminates a contracting deadline for municipalities to qualify for increased Clean Water Fund grants for phosphorus removal projects and (2) reduces, from 50 to 35 percent, the maximum grant amount for phosphorus removal costs. Phosphorus removal projects are those that result in phosphorus levels at or below 0.2 milligrams per liter of effluent discharge (i.e., phosphorus is no more than 0.00002% of the effluent by weight).

The bill also establishes three reporting requirements for the Department of Energy and Environmental Protection (DEEP) on phosphorus reduction. These reports must be submitted to the Environment and Planning and Development committees and generally concern recommendations for helping municipalities comply with certain phosphorus reduction standards.

EFFECTIVE DATE: Upon passage

PHOSPHORUS REMOVAL PROJECT GRANTS

Current law limits eligibility for the increased grants, which cover 50% of phosphorus removal costs, to municipalities that enter into contracts for phosphorus removal projects by July 1, 2018. The bill instead makes all municipalities with these types of contracts entered into on and after the date of the bill's passage eligible for a 35% grant.

Existing law generally provides a 20% grant for the balance of the project's cost and a loan for the remainder. DEEP prioritizes issuing funds for phosphorus removal projects based on permitted

phosphorus discharge limits and the amount of phosphorus removed each year.

By law, other phosphorus projects are eligible for clean water financing as nutrient removal projects. They receive a (1) project grant of 30% of costs associated with nutrient removal, (2) 20% grant for costs unrelated to nutrient removal, and (3) loan for the rest.

REPORTS

Implementing Phosphorus Recommendations

The law requires the DEEP commissioner, or his designee, to work with the chief elected officials, or their designees, of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury, and any other affected municipality to collaboratively evaluate and recommend a statewide strategy to reduce phosphorus loading in inland nontidal waters to comply with federal standards. He had to, by October 1, 2014, submit a report on the recommendations to the Environment and Planning and Development committees. He has not submitted the report.

The bill requires the commissioner to submit another report to the committees on how he will implement the first report's recommendations. This report is due six months after submission of the first one.

Quinnipiac River Watershed

The bill requires the DEEP commissioner, by July 1, 2015, to begin studying the Quinnipiac River watershed to determine the water quality benefits of reducing phosphorus from wastewater treatment plants that must meet certain interim phosphorus reduction levels. He must conduct the study with each affected municipality and the United States Geological Survey.

By January 1, 2016, the commissioner must submit two reports on the study to the Environment and Planning and Development committees.

The first report must include recommendations for (1) additional actions needed to reduce phosphorus discharge and (2) helping affected municipalities comply with phosphorus reduction standards.

The second report must detail any changes the commissioner intends to make to the discharge limits in state discharge permits, based on the (1) phosphorus reduction evaluation and study he conducted with certain affected municipalities (see above) and (2) Quinnipiac River watershed study.

BACKGROUND

Clean Water Fund

The Clean Water Fund provides financial aid to municipalities through grants and loans for planning, designing, and constructing water pollution control facilities. It is financed through a combination of federal funding, state general obligation bonds for the grant portion, and state revenue bonds for the loan portion.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute
Yea 29 Nay 0 (03/25/2015)